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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/523,912	03/09/2000	Raymond W. Cohen	3896-006	5945

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EXAMINER

BOCKELMAN, MARK

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 11/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/523,912

Applicant(s)

COHEN ET AL.

Examiner

Mark W Bockelman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: The examiner requests applicant's to review their specification for minor informalities and particularly with respect to the disclosure beginning with figs. 4. It would appear that the paragraph beginning at the bottom of page 11 which discusses Fig 4e is actually providing information with respect to figure 4f. In addition, on page 11, last paragraph, the discussion with respect to Fig. 4f seems to correspond to the Figure 5b illustration.

Appropriate correction is required.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Applicant's claim 1 refers to an output member as does applicant's specification. Unfortunately applicant has not identified which structure(s) in the figures correspond to the "output member" and is thus unclear as to what applicant is attempting to claim..

3. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant has not identified in the specification what an "output member" corresponds to which makes the claims indefinite as to the scope of the claimed invention.

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4. Claim 11 recites the limitation "physiological monitor" in the claim body. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 9-12, 15-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Rockwell et al USPN 6,405,083 or Parker et al USPN 6,321,113. Rockwell and Parker each teach AED devices that have sensors for detecting ECGs and pulse generators that are responsive to detected arrhythmia's. Each device also has an output member for sending the signal via telemetry to a receiving station where historical ECG and defibrillation data may be displayed. In regard to claims 11, 17, 20 and 21, each of the devices have an output member (communication member) that can receive a training program that contains simulated ECGs and thus the device is capable of applicant's recited intended use of being able to receive sensor signals from and external monitor.

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***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rockwell et USPN 6,405,083 or Parker et al in further view of Yerkovich et al USPN 5,716,380.

Applicant differs from Rockwell and Parker in providing different modes of operation as well as an alarm. It was well known at the time of applicant's invention, as well as conventional, to operate portable defibrillators in different modes including automatic, semi-automatic as well as manual including an alarm for indication the detecting of arrhythmia as evidenced by Yerkovich et al 5,716,380 (column 5 lines 20-25). To have included such would have been obvious to those of ordinary skill in the art.

9. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al. USPN 6,289,243 in view of Sjoquist et al USPN 5,285,792.

Lin et al shows in fig. 5, a patient monitor (70, 74,76,78) and output member (lines leading to external interface 86 and display 24 as well as printer 90) a defibrillator module (84) wherein the output member sends to display 24 ECG and defibrillation operation data figs 8 and 10. Applicant

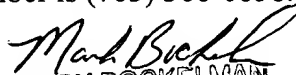
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differs in reciting that the defibrillation module that sends signals to the monitor (microprocessor) which is unclear if Lin et al has such an arrangement. However, to have include circuitry in the defibrillator circuit to determine the operation parameters of the defibrillation module as such as element 36 of Sjoquist et al USPN 5,285,792 would have been an obvious design choice to accomplish the sensing that Lin et al wishes to display as well as other operating parameters taught by Sjoquist et al. The examiner notes that the monitor (72) is "selectively coupled" electrically to the monitor (microprocessor) when a shockable heart rhythm is detected.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Bockelman whose telephone number is (703) 308-2112. The examiner can normally be reached on Monday through Friday from 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes, can be reached on (703) 308-5181. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3591.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

  
MARK BOCKELMAN  
PATENT EXAMINER

MWB

November 4, 2002